



UNITED STATES MARINE CORPS  
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION  
1600 HENDERSON AVENUE SUITE 238  
SAN DIEGO, CALIFORNIA 92140-5001

DepO 5300.6C

9B

16 Sep 98

DEPOT ORDER 5300.6C w/ ch 1

From: Commanding General  
To: Distribution List

Subj: SEXUAL HARASSMENT

Ref: (a) Uniform Code of Military Justice (NOTAL)  
(b) ~~MCO 5300.10B (NOTAL)~~ MCO 1000.9  
(c) SECNAVINST 5300.26C (NOTAL)

1. Purpose. To establish rules prohibiting service members of this Command from engaging in sexual harassment. Such conduct would undermine the integrity of professional relationships, debilitate morale by invading individual privacy and interfere with the productivity and mission of this Command. Sexual harassment will not be tolerated and will be subject to such administrative or disciplinary action as may be appropriate. This Order is applicable to all military personnel assigned to, or otherwise aboard, Marine Corps Recruit Depot, San Diego. Violation of this order may provide a basis for criminal prosecution and/or other disciplinary action under the Uniform Code of Military Justice, reference (a), and as such, is punitive in nature. In addition, civilian personnel engaging in sexual harassment may be subject to disciplinary action as provided in reference (b) and (c).

2. Cancellation. DepO 5300.6B

3. Summary of Revision. This Order is revised to reflect changes in reference (b). This revision contains new and additional definitions in paragraph 5, as set forth in reference (c).

4. Background. References (b) and (c) set forth general prohibitions of sexual harassment by members of the Naval Service. If not specifically prohibited by this /order, an act may still constitute sexual harassment under the more general prohibitions of these regulations and subject the offender to administrative or disciplinary action.

5. Definitions

a. Sexual harassment. A form of sex discrimination that involves unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of sexual nature when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or

(2) Submission to or rejection of such conduct by a person is used as a basis for a career or employment decisions affecting that person, or

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(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creates an intimidating, hostile, or offensive working environment.

(4) The above definition emphasizes that work place conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive (Note: "workplace" is an expansive term for military members and may include conduct on or off duty, 24 hours a day).

(5) Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

b. Reprisal. The wrongful threatening or taking of either unfavorable action against another or withholding favorable action from another solely in response to a report of sexual harassment or violations of this order.

c. Career or Employment Decisions. Decisions concerning some aspect of the employment, career, pay, duty assignment, benefits, or privileges of another.

d. Comments or Gestures of a Sexual Nature. Any communication making reference to physical contact of a sexual nature, not necessarily involving the maker or recipient of the communication, or making reference to erogenous zones, not necessarily those of the maker or recipient of the communication, made for the purpose of sexually arousing or gratifying either person or degrading or humiliating the other person.

e. Condition. To make some aspect of another's employment, career, pay, duty assignment, benefits, or privileges contingent upon fulfillment of some requirement the maker thereof has no right to impose.

f. Discrimination. For purpose of this instruction, discrimination means the illegal treatment of a person or group based on handicap, race, color, national origin, age, religion, or sex. Sex discrimination refers to the practice of wrongfully treating men and women differently in the workplace, solely because of their sex. Sexual harassment of both men and women is a form of sex discrimination.

g. Hostile Environment. A type of sexual harassment that occurs when the unwelcome sexual behavior of one or more persons in a workplace produces a work atmosphere which is offensive, intimidating, or abusive to another person using the reasonable person standard.

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h. Reasonable Person Standard. An objective test used to determine if behavior constitutes sexual harassment. This standard considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment. The reasonable person standard considers the recipient's perspective and not stereotype notions of acceptable behavior. For example, a work environment in which sexual slurs, the display of sexually suggestive calendars, or other offensive sexual behavior abound can constitute sexual harassment even if other people might deem it to be harmless or insignificant.

i. Recipient. Anyone subjected to sexual harassment as defined in this instruction.

j. Reckless. Under this order, a service member is reckless when, the service member disregards a known risk that his or her action is likely to be offensive to the other person under the circumstances, and the service member acts with heedless indifference to the reactions of the other person.

k. Sexual Favors. Sexual favors are sexual privileges that are granted or conceded in the work environment.

l. Sexual Nature. Conduct that a reasonable person would find sexual in nature in light of the relevant facts and circumstances. Behavior does not need to be overtly sexual if it creates an offensive work environment. Examples include but are not limited to sexist remarks or slurs, sexual advances, displays of pornographic material, touching, language, gestures, mannerisms, and similar behavior.

m. Unwelcome. Conduct that is not solicited and which is considered objectionable by the person to whom it is directed and which is found to be undesirable or offensive using a reasonable person standard.

n. Work Environment. The workplace or any other place that is work-connected, as well as the conditions or atmosphere under which people are required to work. Examples of work environment include, but are not limited to, an office, an entire office building, a DOD base or installation, DOD ships, aircraft or vehicles, anywhere when engaged in official DOD business, as well as command-sponsored social, recreational and sporting events, regardless of location.

o. Duty Status. A person is in a duty status if the person is (1) a service member or (2) a civilian employee of the Department of Defense (DOD) during times for which he or she is receiving U.S. Government compensation for his or her work (i.e. during working hours) and is not on leave, or (3) a civilian employee of a DOD contractor or subcontractor during times he or she is engaged in work on U.S. Government projects, or (4) a DOD employee during times not covered under (2) or (3) who nonetheless is acting within the scope of his or her duties of employment. Lack of knowledge of a person's duty status is not a defense to violations of this Order unless circumstances exist which would cause a reasonable person to conclude that the person was not in a duty status when the offending actions were taken.

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6. Action

a. All military personnel will refrain from sexual harassment, including, but not limited to the following:

(1) Making comments or gestures of a sexual nature to another person, and from making physical contact of a sexual nature with another person, while either person is in a duty status, when the maker knows or should have known that his or her action is offensive to the other person or is reckless in that regard.

(2) Influencing, offering to influence, or threatening the career, pay, job, working conditions, or work duties of another person in exchange for sexual favors.

b. Commanding officers will:

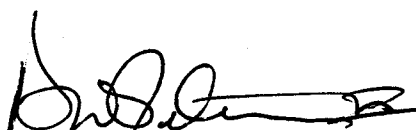
(1) Ensure a copy of this Order is posted on command bulletin boards, and its contents are brought to the attention of all military and civilian personnel.

(2) Include training on the effects of sexual harassment in the leadership training program.

(3) Promptly investigate any complaints of sexual harassment.

(4) Ensure personnel are aware of appropriate means to register complaints of sexual harassment with their organization.

(5) Prohibit reprisals against individuals who provide information on incidents of sexual harassment.

  
H. W. PETERSON III  
CHIEF OF STAFF

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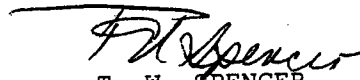
Subj: SEXUAL HARASSMENT

1. Purpose. To direct a pen change to the basic Order.

2. Action.

a. On page one, reference (b), cross out "5300.10B (NOTAL)" and replace with "1000.9."

3. Filing Instructions. File this change transmittal immediately behind the signature page of the basic Order.

  
T. W. SPENCER  
Chief of Staff

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